

ARGUMENTS/COMMENTS

Claims 1, 4, 6-11, 14-19, 22, 24, 25, 28-30, 33, 35-38, 41, and 42 stand as finally rejected under 35 U.S.C. §112 as failing to comply with the written description. It is the Examiner's position that there is no basis for a recitation of a seal initiation temperature of less than 80°C.

The claims of the present invention have been amended to incorporate a lower temperature of 80°C, basis for which can be found in paragraph 0007. The Applicants respectfully assert that the Claims are now in condition for allowance under §112. In the even that the Examiner does not allow the claims for other reasons, the Examiner is requested to allow these amendments in order to put the claims into better condition for appeal.

Claims 1, 4, 6-11, 14-19, 22, 24, 25, 28-30, 33, 35-38, 41, and 42 stand as rejected under 35 U.S.C. §102(b) as anticipated over JP-11-060833. It is the Examiner's position that the Japanese patent document teaches monolayer heat sealable films made from a metallocene-catalyzed propylene copolymer and that the polymers produced are isotactic in nature and have random distributions of the comonomer. The Examiner also states that the materials have good seal / melt properties. The Examiner notes that the claims have been amended to have a seal ignition temperature of less than 125°C, but that it is the Applicant that has the burden of showing that a 2 degree difference in melting is not very significant.

The Applicants respectfully assert that the claims of the present invention are not anticipated by the 833 reference. In view of the Examiner's §112 rejection, the Applicants have amended the independent claims to include a limitation of having a surface with a heat-seal initiation temperature of 80°C to 125°C. The heat seal range of temperatures for the 833 reference is from 127°C to 136°C. The claims of the present application, as now amended, are clearly outside of the scope of the teachings of the 833 reference.

The Applicants do not agree that they have a further burden of showing that the present claims are not anticipated other than showing the presence in the claims of the present invention of a limitation

of a specific and important physical property that is different from that in the scope of the teaching of the cited prior art reference. Respectfully, a two degree difference in a seal initiation temperature can be significant in some applications such as packaging where heat may be an issue. While the gap BETWEEN the ranges may be small, the span of the ranges is large. The 80 to 125°C in the present invention as opposed to the prior art's range of 127-136 is very significant. It is respectfully asserted that none of the claims of the present invention are anticipated by the 833 reference.

Claims 1, 4, 6-11, 14-19, 22, 24, 25, 28-30, 33, 35-38, 41, and 42 stand as rejected under 35 U.S.C. §103 as obvious over JP-11-060833. It is the Examiner's position that it would have been obvious to have used higher comonomer contents for applications where a lower melting point is desired.

The Examiner, in the §102 rejection states that a 2 degree difference is not significant. It is respectfully submitted that such a difference is significant. The other temperatures in the range are also significant.

Further, the present invention is not obvious over the 833 reference because one of ordinary skill in the art of prepare polymer would not have reasonable expectation of success in producing a film with the desired properties of lower seal initiation temperature by adding more comonomers. As is shown by the other references cited by the Examiner, the addition of ethylene to a polymer can be undesirable. The Applicants respectfully assert that the presence of art such as the EP 0-669-348 reference which teaches:

At page 2, lines 20-23: "The random copolymers have sufficient transparency and heat-sealing properties attributable to their low crystallinity and low melting point. The content of 20°C xylene soluble fraction (CXS) in the random copolymer, which has an undesirable property for food wrapping, **extremely increases with the content of ethylene and/or alpha-olefin.**"

At page 3, Lines 48-49: "A small quantity of ethylene may be copolymerized in the propylene random copolymer of the invention as long as the ethylene does not damage the physical properties of the resulting copolymer."

Without making the experiment, one of ordinary skill in the art could not know whether the result of adding ethylene to the polymer of the 833 reference would produce a good film with a lower seal initiation temperature or a film with all kinds of problems that would render it useless for important applications such as food packaging, for example. It is not even clear if it would be an obvious experiment except for the fact of the abundance and cost of ethylene as opposed to other potential comonomers, and obvious to experiment is not obvious under 35 USC §103.

Claims 1, 4, 6-11, 14-19, 22, 24, 25, 28-30, 33, 35-38, 41, and 42 stand as rejected under 35 U.S.C. 103(a) as being unpatentable over EP 0-669-348 in view of JP-1 1-060833 or the converse. The Examiner states that the 348 reference is cited to teach oriented films and film structures similar to those of the present invention, and it would have been obvious to have use the films of the 833 reference in the applications and structures taught in the 348 reference.

It is important to note the Examiner did not say that you would also have to increase the ethylene content and notwithstanding the teachings in the '348 reference that it would be "bad" to do so. For the same reasons as already stated above, the claims of the present invention are not obvious over this combination of art. One of ordinary skill in the art would not be motivated to make this combination in view of the teachings regarding ethylene content therein.

Summary

The claims as amended are neither anticipated by nor obvious over the art cited by the Examiner.
Allowance of all non-cancelled claims is respectfully requested.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "G. L. Tyler", is written over a rectangular area with a light gray dot grid background.

Gene L. Tyler
Reg. No. 35,395
Madan, Mossman & Sriram
2603 Augusta
Suite 700
Houston, Texas 77057
(713) 266-1130 x 122 Tel
(713) 266-8510 Fax

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